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IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

Jeff Macy, as an individual, Jerusha
Macy, as an individual, Josiah Macy,
as an individual, and Jodiah Macy, as
an individual,

Plaintiffs,

v.

California Highway Patrol, a State
Agency; Officer Christopher Bates;
Supervisor Officer Sergeant Jeffrey
O'Brien, and Does 1 - 10, inclusive,

Defendants.

5:23-CV-02245-RGK-BFM

**DEFENDANTS OFFICER
CHRISTOPHER BATES AND
SERGEANT JEFFREY'S
OPPOSITION TO MOTION FOR
SUMMARY JUDGMENT OF
PLAINTIFF JEFF MACY**

Local Rule 56-3

Date: TBD
Time: 10:00 a.m.
Courtroom: 780
Judge: Hon. Brianna Fuller Mircheff
Trial Date: TBA
Action Filed: 5/06/2024

INTRODUCTION

Defendants Officer Christopher Bates and Sargent Jeffrey O'Brien hereby
filed their opposition to Plaintiff's Notice of Motion and Motion for Summary
Judgment (ECF 84.)

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1 Plaintiff's motion for summary judgment fails to adhere to the court order
2 requiring admissible evidence, fails to adhere to local rules, fails to provide any
3 supporting evidence, and is a word for word reproduction of Plaintiff's opposition
4 to Defendants' motion for summary judgment. Moreover, Defendants addressed
5 each of Plaintiff's legal arguments presented in the motion for summary judgment
6 in their reply brief, as it is the same. Finally, the motion for summary judgment
7 should be denied because it fails to support the sixth cause of action for unlawful
8 prolonged stop and unlawful search and seizure.

9 **PROCEDURAL BACKGROUND**

10 On February 12, 2025, Plaintiff filed "Plaintiff's Notice of Motion and Motion
11 for Summary Judgment." (ECF 72.) As Plaintiff's motion for summary judgment
12 did not comply with local rules, on February 13, 2025, the Court struck the motion
13 for summary judgment through its minute order. (ECF 73.) The minute order also
14 instructed Plaintiff on the proper procedure to file the motion and provided leave
15 for plaintiff to refile the motion for summary judgment. (*Ibid.*)

16 On February 25, 2025, Plaintiff refiled the identical motion for summary
17 judgment with a hearing set for March 18, 2025. (ECF 84.) The motion did not
18 include Statement of Uncontroverted Facts and Conclusions of Law as required by
19 Local Rule 56-1, or any other supporting evidence. Additionally, the legal
20 arguments and language in the motion (ECF 84 1:25-3:14.) are identical to
21 Plaintiff's opposition to Defendants' motion for summary judgment (ECF 70, 1:17-
22 3:14 (except for repeated language in ECF 70 2:20-27 & 3:1-11, the motion does
23 not make the same typographical error).)

24 **LEGAL ARGUMENT**

25 **I. THE MOTION WAS FILED LATE FOR THE NOTED HEARING DATE.**

26 The notice of motion does not comply with Local Rule 6-1, requiring 28 days'
27 notice for the hearing.

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II. THE MOTION DOES NOT INCLUDE ANY ADMISSIBLE EVIDENCE.

Plaintiff failed to file the required statement of uncontested facts and conclusions of law as required by local rule. Thus, there is no admissible evidence to support the motion. “The Court is not obligated to look any further in the record for supporting evidence other than what is actually and specifically referenced in the Statement of Uncontested Facts, the Statement of Genuine Disputes, and the Response to Statement of Genuine Disputes.” Local Rule 56-4. “A trial court can only consider admissible evidence in ruling on a motion for summary judgment.” *Paine v. Inv. & Admin. Comm. of Walt Disney Co. Sponsored Qualified Benefit Plans*, 630 F. Supp. 3d 1275, 1280 (C.D. Cal. 2022)

Therefore, because the motion fails to provide any admissible evidence, the motion can be denied on this ground alone.

III. DEFENDANTS RESPONDED TO THE EXACT SAME ARGUMENTS IN THE REPLY BRIEF TO THE OPPOSITION TO DEFENDANTS MOTION.

Defendants direct the court's attention to their reply to the opposition to the motion for summary judgment. (ECF 85, 86, 87.) Because the Plaintiff's opposition is the exact same language as the motion, Defendants have addressed the motion's arguments directly in their reply brief.

Moreover, as the parties have filed cross-motions for summary judgment, the court may review the uncontested facts presented in Defendant's motion and apply it to Plaintiff's motion. "Where, as here, the parties have both filed summary judgment motions, this court "consider[s] each party's evidence to evaluate whether summary judgment was appropriate." *Herrera v. Command Sec. Corp.*, 837 F.3d 979, 985 (9th Cir. 2016).

CONCLUSION

Because the Defendants have previously addressed the same arguments, and Plaintiff is unable to demonstrate that there is a triable issue of fact as to Defendant's motion, Plaintiff's motion for summary judgment warrants denial.

1 Additionally, as Plaintiff's motion is bereft of any admissible evidence, was filed
2 late, and failed to comport with local rules, the motion should be denied.

3 Dated: March 14, 2025

Respectfully submitted,

4 ROB BONTA
5 Attorney General of California
6 CATHERINE WOODBRIDGE
7 Supervising Deputy Attorney General

8 */s/ Julio A. Hernandez*

9 JULIO A. HERNANDEZ
10 Deputy Attorney General
11 *Attorneys for Defendants Christopher*
12 *Bates and Jeffrey O'Brien*

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CERTIFICATE OF COMPLIANCE

2 The undersigned, counsel of record for Defendants Christopher Bates and
3 Jeffrey O'Brien certifies that this brief contains 650 words, which complies with the
4 word limit of L.R. 11-6.1.

5 || Dated: March 14, 2025

Respectfully submitted,

ROB BONTA
Attorney General of California
CATHERINE WOODBRIDGE
Supervising Deputy Attorney General

/s/ Julio A. Hernandez

JULIO A. HERNANDEZ
Deputy Attorney General
*Attorneys for Defendants Christopher
Bates and Jeffrey O'Brien*

DECLARATION OF SERVICE BY E-MAIL AND U.S. MAIL

Case Name: *Macy, Jeff, et al. v. California Highway Patrol, et al.*
Case No.: 5:23-CV-02245-RGK-BFM

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On March 14, 2025, I served the attached **DEFENDANTS OFFICER CHRISTOPHER BATES AND SERGEANT JEFFREY'S OPPOSITION TO MOTION FOR SUMMARY JUDGMENT OF PLAINTIFF JEFF MACY** by transmitting a true copy via electronic mail. In addition, I placed a true copy thereof enclosed in a sealed envelope, in the internal mail system of the Office of the Attorney General, addressed as follows:

Jeff Macy
P.O. Box #103
Twin Peaks, CA 92391

E-mail Address: macybuilders@yahoo.com

In Pro Per

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on **March 14, 2025**, at Sacramento, California.

Donna Kulczyk

Declarant

/s/ Donna Kulczyk

Signature